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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,934	06/27/2001	Christopher G. Matthews	PKR 2 0679 US	6286

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EXAMINER

SUNG, CHRISTINE

ART UNIT

PAPER NUMBER

2878

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,934

Applicant(s)

MATTHEWS ET AL.

Examiner

Christine Sung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 and 15-20 is/are allowed.
- 6) ☒ Claim(s) 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

1. The amendment filed on August 21, 2003 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berlad (US Patent 6,140,650).

Regarding claim 14, Berlad discloses a plurality of detectors (column 2, lines 10-14), the acquisition of data from the detectors (abstract); the determination of calibration factors for correcting data (Column 10, letter g); and calculating calibration parameters by minimization algorithm that includes optimizing fitting parameters with acquired data (Column 10, lines 10-11). Although Berlad does not specifically disclose the use of a data memory, calibration memory, or processor to communicate the calibration memory to the data memory, it is inherent that they contain the aforementioned devices, for it indicates processing and saving of data. It is further obvious that the detectors are placed in a gantry or some sort of housing because Berlad gives free range as to what type of system to be used, and his only requirement the detectors have the ability to rotate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the conventional setup, which is a gantry. Further, since a calibration is to be performed, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have determined the apparent size of the point

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radiation source based on the LORs because the measurements attained do not characterize the actual size of the point source because the calibration has not been performed on the measurements. Therefore it would have been obvious to one having ordinary skill in the art that the minimization algorithm would include accounting for the apparent point source size in determining the actual point source size.

Response to Arguments

4. Regarding claim 14, the arguments presented are not persuasive because as it is presented right now, it does not include the subject matter that was indicted as reading over the prior art cited. The reference made to Berlad (US Patent 6,140,650) in the Statement for reasons for indication of allowable subject matter, was included as an example of how the instant invention read over the current prior art. The allowable subject matter includes generating a figure of merit that characterizes the apparent size of the point radiation source. The characterization of the location of the apparent radiation source alone does not sufficiently read over the prior art, but rather, the allowable subject matter includes the generation of a figure of merit to determine the apparent size of the point source radiation. Therefore, in its current format claim 14m does not include allowable subject matter and thus it still stands rejected.

Allowable Subject Matter

5. Claims 1-13 and 15-20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 1-13, 15-20, none of the prior art of record discloses generating a figure of merit characterizing the apparent size of the point radiation source based upon the LORs.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

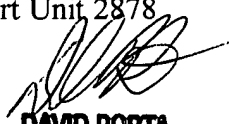
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine Sung whose telephone number is 703-305-0382. The examiner can normally be reached on Monday- Friday 7-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 703-308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Christine Sung
Examiner
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DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

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